

1 A bill to be entitled
2 An act relating to sexually explicit material;
3 amending s. 775.0847, F.S.; redefining terms; defining
4 the term "identifiable minor"; revising the list of
5 circumstances under which specified offenses may be
6 reclassified; amending s. 784.049, F.S.; increasing
7 the monetary damages an aggrieved person may receive
8 as a result of sexual cyberharassment; amending s.
9 827.071, F.S.; defining and redefining terms;
10 conforming provisions to changes made by the act;
11 creating s. 836.13, F.S.; defining term; prohibiting
12 the willful and malicious promotion of altered sexual
13 depictions without consent; providing criminal
14 penalties; providing a civil cause of action;
15 providing applicability; providing construction;
16 creating s. 836.14, F.S.; defining a term; prohibiting
17 a person from obtaining, possessing, or promoting
18 sexually explicit images without consent and with
19 specified intent; providing criminal penalties;
20 providing a civil cause of action; providing
21 applicability; providing construction; amending s.
22 847.001, F.S.; redefining terms; defining the terms
23 "identifiable minor" and "promote"; amending 847.011;
24 increasing a penalty relating to child-like sex dolls;
25 amending 847.0137, F.S.; deleting the definition of
26 the term "minor"; redefining the term "transmit";

amending s. 921.0022, F.S.; ranking offenses created by this act on the Criminal Punishment Code offense severity ranking chart; conforming provisions to changes made by the act; amending ss. 288.1254 and 847.0141, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 775.0847, Florida Statutes, is amended to read:

775.0847 Possession or promotion of certain images of child pornography; reclassification.—

(1) For purposes of this section:

(a) "Child" or "minor" means any person, whose identity is known or unknown, younger ~~less~~ than 18 years of age.

(b) "Child pornography" means:

1. Any image depicting a minor engaged in sexual conduct;
or

2. Any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct.

(c) "Identifiable minor" means a person:

1. Who was a minor at the time the image was created, adapted, or modified, or whose image as a minor was used in the creating, adapting, or modifying of the image; and

53 2. Who is recognizable as an actual person by the person's
54 face, likeness, or other distinguishing characteristic, such as
55 a unique birthmark, or other recognizable feature.

56
57 The term may not be construed to require proof of the actual
58 identity of the identifiable minor.

59 (d)-(e) "Sadomasochistic abuse" means flagellation or
60 torture by or upon a person or the condition of being fettered,
61 bound, or otherwise physically restrained, for the purpose of
62 deriving sexual satisfaction, or satisfaction brought about as a
63 result of sadistic violence, from inflicting harm on another or
64 receiving such harm oneself.

65 (e)-(d) "Sexual battery" means oral, anal, or vaginal
66 penetration by, or union with, the sexual organ of another or
67 the anal or vaginal penetration of another by any other object;
68 however, sexual battery does not include an act done for a bona
69 fide medical purpose.

70 (f)-(e) "Sexual bestiality" means any sexual act, actual or
71 simulated, between a person and an animal involving the sex
72 organ of the one and the mouth, anus, or vagina of the other.

73 (g)-(f) "Sexual conduct" means actual or simulated sexual
74 intercourse, deviate sexual intercourse, sexual bestiality,
75 masturbation, or sadomasochistic abuse; actual or simulated lewd
76 exhibition of the genitals; actual physical contact with a
77 person's clothed or unclothed genitals, pubic area, buttocks,
78 or, if such person is a female, breast with the intent to arouse

79 or gratify the sexual desire of either party; or any act or
80 conduct which constitutes sexual battery or simulates that
81 sexual battery is being or will be committed. A mother's
82 breastfeeding of her baby does not under any circumstance
83 constitute "sexual conduct."

84 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137,
85 or s. 847.0138 shall be reclassified to the next higher degree
86 as provided in subsection (3) if:

87 (a) The offender possesses 10 or more images of any form
88 of child pornography regardless of content; and

89 (b) The content of at least one image contains one or more
90 of the following:

91 1. A child who is younger than the age of 5.

92 2. Sadomasochistic abuse involving a child.

93 3. Sexual battery involving a child.

94 4. Sexual bestiality involving a child.

95 5. Any motion picture, film, video, or computer-generated
96 motion picture, film, or video ~~movie~~ involving a child,
97 regardless of length and regardless of whether the motion
98 picture, film, video, or computer-generated motion picture,
99 film, or video ~~movie~~ contains sound.

100 (3)(a) In the case of a felony of the third degree, the
101 offense is reclassified to a felony of the second degree.

102 (b) In the case of a felony of the second degree, the
103 offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 2. Paragraph (b) of subsection (5) of section 784.049, Florida Statutes, is amended to read:

784.049 Sexual cyberharassment.—

(5) An aggrieved person may initiate a civil action against a person who violates this section to obtain all appropriate relief in order to prevent or remedy a violation of this section, including the following:

(b) Monetary damages to include \$10,000 ~~\$5,000~~ or actual damages incurred as a result of a violation of this section, whichever is greater.

Section 3. Section 827.071, Florida Statutes, is amended to read:

827.071 Sexual performance by a child; child pornography; penalties.—

(1) As used in this section, the following definitions shall apply:

(a) "Child" or "minor" means any person, whose identity is known or unknown, younger than 18 years of age.

(b) "Child pornography" means:

1. Any image depicting a minor engaged in sexual conduct;

or

2. Any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct.

(c)~~(a)~~ "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(d) "Identifiable minor" means a person:

1. Who was a minor at the time the image was created, adapted, or modified, or whose image as a minor was used in the creating, adapting, or modifying of the image; and

2. Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature.

The term may not be construed to require proof of the actual identity of the identifiable minor.

(e)~~(b)~~ "Intentionally view" means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, ~~image~~, data, computer depiction, representation, or other presentation over any period of time.

(f)~~(e)~~ "Performance" means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

(g)~~(d)~~ "Promote" means to procure, manufacture, issue,

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157 sell, give, provide, lend, mail, deliver, transfer, transmit,
158 transmute, publish, distribute, circulate, disseminate, present,
159 exhibit, send, post, share, or advertise or to offer or agree to
160 do the same.

161 (h)~~(e)~~ "Sadomasochistic abuse" means flagellation or
162 torture by or upon a person, or the condition of being fettered,
163 bound, or otherwise physically restrained, for the purpose of
164 deriving sexual satisfaction from inflicting harm on another or
165 receiving such harm oneself.

166 (i)~~(f)~~ "Sexual battery" means oral, anal, or vaginal
167 penetration by, or union with, the sexual organ of another or
168 the anal or vaginal penetration of another by any other object;
169 however, "sexual battery" does not include an act done for a
170 bona fide medical purpose.

171 (j)~~(g)~~ "Sexual bestiality" means any sexual act between a
172 person and an animal involving the sex organ of the one and the
173 mouth, anus, or vagina of the other.

174 (k)~~(h)~~ "Sexual conduct" means actual or simulated sexual
175 intercourse, deviate sexual intercourse, sexual bestiality,
176 masturbation, or sadomasochistic abuse; actual or simulated lewd
177 exhibition of the genitals; actual physical contact with a
178 person's clothed or unclothed genitals, pubic area, buttocks,
179 or, if such person is a female, breast, with the intent to
180 arouse or gratify the sexual desire of either party; or any act
181 or conduct which constitutes sexual battery or simulates that
182 sexual battery is being or will be committed. A mother's

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breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(1)~~(i)~~ "Sexual performance" means any performance or part thereof which includes sexual conduct by a child ~~of less than 18 years of age~~.

(m)~~(j)~~ "Simulated" means the explicit depiction of conduct set forth in paragraph (k) ~~(h)~~ which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child ~~less than 18 years of age~~ to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. A person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child ~~less than 18 years of age~~. A person who ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) It is unlawful for any person to possess with the

209 intent to promote any photograph, motion picture, exhibition,
210 show, representation, or other presentation which, in whole or
211 in part, includes child pornography ~~any sexual conduct by a~~
212 ~~child~~. The possession of three or more copies of such
213 photograph, motion picture, representation, or presentation is
214 prima facie evidence of an intent to promote. A person who
215 ~~Whoever~~ violates this subsection commits ~~is guilty of~~ a felony
216 of the second degree, punishable as provided in s. 775.082, s.
217 775.083, or s. 775.084.

218 (5)(a) It is unlawful for any person to knowingly possess,
219 control, or intentionally view a photograph, motion picture,
220 exhibition, show, representation, image, data, computer
221 depiction, or other presentation which, in whole or in part, he
222 or she knows to include child pornography ~~any sexual conduct by~~
223 ~~a child~~. The possession, control, or intentional viewing of each
224 such photograph, motion picture, exhibition, show, image, data,
225 computer depiction, representation, or presentation is a
226 separate offense. If such photograph, motion picture,
227 exhibition, show, representation, image, data, computer
228 depiction, or other presentation includes child pornography
229 ~~sexual conduct by~~ more than one child, then each such child in
230 each such photograph, motion picture, exhibition, show,
231 representation, image, data, computer depiction, or other
232 presentation that is knowingly possessed, controlled, or
233 intentionally viewed is a separate offense. A person who
234 violates this paragraph ~~subsection~~ commits a felony of the third

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degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Paragraph (a) ~~This subsection~~ does not apply to any material possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

(6) Prosecution of a ~~any~~ person for an offense under this section does ~~shall~~ not prohibit prosecution of that person in this state for a violation of any other law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

Section 4. Section 836.13, Florida Statutes, is created to read:

836.13 Promotion of an altered sexual depiction; prohibited acts; penalties; applicability.—

(1) As used in this section, the term:

(a) "Altered sexual depiction" means any visual depiction that, as a result of any type of digital, electronic, mechanical, or other modification, alteration, or adaptation, depicts a realistic version of an identifiable person:

1. With the nude body parts of another person as the nude body parts of the identifiable person;

2. With computer-generated nude body parts as the nude body parts of the identifiable person; or

3. Engaging in sexual conduct as defined in s. 847.001 in which the identifiable person did not engage.

261 (b) "Identifiable person" means a person who is
262 recognizable as an actual person by the person's face, likeness,
263 or other distinguishing characteristic, such as a unique
264 birthmark, or other recognizable feature.

265 (c) "Nude body parts" means the human male or female
266 genitals, pubic area, or buttocks with less than a fully opaque
267 covering; or the female breast with less than a fully opaque
268 covering of any portion thereof below the top of the nipple; or
269 the depiction of covered male genitals in a discernibly turgid
270 state. The term does not under any circumstances include a
271 mother breastfeeding her baby.

272 (d) "Promote" means to procure, manufacture, issue, sell,
273 give, provide, lend, mail, deliver, transfer, transmit,
274 transmute, publish, distribute, circulate, disseminate, present,
275 exhibit, send, post, share, or advertise or to offer or agree to
276 do the same.

277 (e) "Visual depiction" includes, but is not limited to, a
278 photograph, picture, image, motion picture, film, video, or
279 other visual representation.

280 (2) A person who willfully and maliciously promotes an
281 altered sexual depiction of an identifiable person, without the
282 consent of the identifiable person, and who knows or reasonably
283 should have known that such visual depiction was an altered
284 sexual depiction, commits a felony of the third degree,
285 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

286 (3) Every act, thing, or transaction prohibited by this

287 section constitutes a separate offense and is punishable as
288 such.

289 (4) The presence of a disclaimer within an altered sexual
290 depiction which notifies a viewer that the person or persons
291 depicted did not consent to or participate in the creation or
292 promotion of the material, or that the person or persons
293 depicted did not actually perform the actions portrayed, is not
294 a defense and does not relieve a person of criminal liability
295 under this section.

296 (5) An aggrieved person may initiate a civil action
297 against a person who violates subsection (2) to obtain
298 appropriate relief in order to prevent or remedy a violation of
299 subsection (2), including all of the following:

300 (a) Injunctive relief.

301 (b) Monetary damages to include \$10,000 or actual damages
302 incurred as a result of a violation of subsection (2), whichever
303 is greater.

304 (c) Reasonable attorney fees and costs.

305 (6) The criminal and civil penalties of this section do
306 not apply to:

307 (a) A provider of an interactive computer service as
308 defined in 47 U.S.C. s. 230(f), an information service as
309 defined in 47 U.S.C. s. 153, or a communications service as
310 defined in s. 202.11, which provides the transmission, storage,
311 or caching of: electronic communications or messages of others;
312 another related telecommunications or commercial mobile radio

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service; or content provided by another person;

(b) A law enforcement officer, as defined in s. 943.10, or any local, state, federal, or military law enforcement agency that promotes an altered sexual depiction in connection with the performance of his or her duties as a law enforcement officer or the duties of the law enforcement agency;

(c) A person reporting unlawful activity; or

(d) A person participating in a hearing, trial, or other legal proceeding.

(7) A violation of this section is committed within this state if any conduct that is an element of the offense, or any harm to the depicted person resulting from the offense, occurs within this state.

Section 5. Section 836.14, Florida Statutes, is created to read:

836.14 Unlawfully obtaining, possessing, or promoting a sexually explicit image.—

(1) As used in this section, the term:

(a) "Identifiable person" has the same meaning as in s. 836.13.

(b) "Obtain" means to appropriate to one's own use or to the use of any other person not entitled thereto.

(b) "Promote" has the same meaning as in s. 836.13.

(c) "Sexually explicit image" means any image depicting nudity as defined in s. 847.001 or a person engaging in sexual conduct as defined in s. 847.001.

339 (2) A person who willfully obtains with the intent to
340 promote a sexually explicit image of an identifiable person
341 without the identifiable person's authorization commits a felony
342 of the third degree, punishable as provided in s. 775.082, s.
343 775.083, or s. 775.084.

344 (3) A person who possesses a sexually explicit image of an
345 identifiable person with the intent to promote such image for
346 the purpose of pecuniary or any other financial gain without the
347 identifiable person's authorization commits a felony of the
348 third degree, punishable as provided in s. 775.082, s. 775.083,
349 or s. 775.084.

350 (4) A person who promotes a sexually explicit image of an
351 identifiable person for the purpose of pecuniary or any other
352 financial gain without the identifiable person's authorization
353 commits a felony of the second degree, punishable as provided in
354 s. 775.082, s. 775.083, or s. 775.084.

355 (5) Every act, thing, or transaction prohibited by this
356 section constitutes a separate offense and is punishable as
357 such.

358 (6) An aggrieved person may initiate a civil action
359 against a person who violates this section to obtain all
360 appropriate relief in order to prevent or remedy a violation of
361 this section, including the following:

362 (a) Injunctive relief.

363 (b) Monetary damages to include \$10,000 or actual damages
364 incurred as a result of a violation of this section, whichever

365 is greater.

366 (c) Reasonable attorney fees and costs.

367 (7) The criminal and civil penalties of this section do
368 not apply to:

369 (a) A provider of an interactive computer service as
370 defined in 47 U.S.C. s. 230(f), an information service as
371 defined in 47 U.S.C. s. 153, or a communications service as
372 defined in s. 202.11, which provides the transmission, storage,
373 or caching of: electronic communications or messages of others;
374 another related telecommunications or commercial mobile radio
375 service; or content provided by another person;

376 (b) A law enforcement officer, as defined in s. 943.10, or
377 any local, state, federal, or military law enforcement agency
378 that promotes a sexually explicit image in connection with the
379 performance of his or her duties as a law enforcement officer or
380 the duties of the law enforcement agency;

381 (c) A person reporting unlawful activity;

382 (d) A person participating in a hearing, trial, or other
383 legal proceeding; or

384 (e) A person promoting a sexually explicit image that
385 resulted from the voluntary exposure of the person depicted in a
386 public or commercial setting.

387 (8) A violation of this section is committed within this
388 state if any conduct that is an element of the offense, or any
389 harm to the depicted individual resulting from the offense,
390 occurs within this state.

391 Section 6. Present subsections (7) through (11) and (12)
392 through (20) of section 847.001, Florida Statutes, are
393 renumbered as subsections (8) through (12) and (14) through
394 (22), respectively, new subsections (7) and (13) are added to
395 that section, and subsection (3) and present subsections (8),
396 (16), and (19) of that section, are amended to read:

397 847.001 Definitions.—As used in this chapter, the term:

398 (3) "Child pornography" means:

399 (a) Any image depicting a minor engaged in sexual conduct;
400 or

401 (b) Any image that has been created, altered, adapted, or
402 modified by electronic, mechanical, or other means, to portray
403 an identifiable minor engaged in sexual conduct.

404 (7) "Identifiable minor" means a person:

405 (a) Who was a minor at the time the image was created,
406 adapted, or modified, or whose image as a minor was used in the
407 creation, adaption, or modification of the image; and

408 (b) Who is recognizable as an actual person by the
409 person's face, likeness, or other distinguishing characteristic,
410 such as a unique birthmark, or other recognizable feature.

411
412 The term may not be construed to require proof of the actual
413 identity of the identifiable minor.

414 (9)(8) "Minor" or "child" means any person, whose identity
415 is known or unknown, younger than ~~under the age of~~ 18 years of
416 age.

417 (13) "Promote" means to procure, manufacture, issue, sell,
418 give, provide, lend, mail, deliver, transfer, transmit,
419 transmute, publish, distribute, circulate, disseminate, present,
420 exhibit, send, post, share, or advertise or to offer or agree to
421 do the same.

422 (18)~~(16)~~ "Sexual conduct" means actual or simulated sexual
423 intercourse, deviate sexual intercourse, sexual bestiality,
424 masturbation, or sadomasochistic abuse; actual or simulated lewd
425 exhibition of the genitals; actual physical contact with a
426 person's clothed or unclothed genitals, pubic area, buttocks,
427 or, if such person is a female, breast with the intent to arouse
428 or gratify the sexual desire of either party; or any act or
429 conduct which constitutes sexual battery or simulates that
430 sexual battery is being or will be committed. A mother's
431 breastfeeding of her baby does not under any circumstance
432 constitute "sexual conduct."

433 (21)~~(19)~~ "Simulated" means the explicit depiction of
434 conduct described in subsection (18) ~~(16)~~ which creates the
435 appearance of such conduct and which exhibits any uncovered
436 portion of the breasts, genitals, or buttocks.

437 Section 7. Subsection (5) of section 847.011, Florida
438 Statutes, is amended to read:

439 847.011 Prohibition of certain acts in connection with
440 obscene, lewd, etc., materials; penalty.—

441 (5)(a)1. A person may not knowingly sell, lend, give away,
442 distribute, transmit, show, or transmute; offer to sell, lend,

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443 give away, distribute, transmit, show, or transmute; have in his
444 or her possession, custody, or control with the intent to sell,
445 lend, give away, distribute, transmit, show, or transmute; or
446 advertise in any manner an obscene, child-like sex doll.

447 2.a. Except as provided in sub-subparagraph b., a person
448 who violates this paragraph commits a felony of the third
449 degree, punishable as provided in s. 775.082, s. 775.083, or s.
450 775.084.

451 b. A person who is convicted of violating this paragraph a
452 second or subsequent time commits a felony of the second degree,
453 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

454 ~~(b)1. Except as provided in subparagraph 2.,~~ A person who
455 knowingly has in his or her possession, custody, or control an
456 obscene, child-like sex doll commits a felony ~~misdemeanor~~ of the
457 third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s.
458 775.083, or 775.084.

459 ~~2. A person who is convicted of violating this paragraph a~~
460 ~~second or subsequent time commits a felony of the third degree,~~
461 ~~punishable as provided in s. 775.082 or s. 775.083.~~

462 Section 8. Subsection (1) of section 847.0137, Florida
463 Statutes, is amended to read:

464 847.0137 Transmission of pornography by electronic device
465 or equipment prohibited; penalties.—

466 (1) As used in this section, the term ~~For purposes of this~~
467 ~~section:~~

468 ~~(a) "Minor" means any person less than 18 years of age.~~

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~~(b)~~ "Transmit" means the act of sending and causing to be delivered, including the act of providing access for receiving and causing to be delivered, any image, information, or data ~~from one or more persons or places to one or more other persons or places~~ over or through any medium, including the Internet or an interconnected network, by use of any electronic equipment or other device.

The provisions of this section do not apply to subscription-based transmissions such as list servers.

Section 9. Paragraphs (c), (d), and (e) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2) (b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.

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488	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
489	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
490	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
491	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
492	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
493	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
494	327.35 (2) (b)	3rd	Felony BUI.
495			

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496	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
497	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
498	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
499	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
	379.2431 (1) (e) 6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any

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marine turtle species described
in the Marine Turtle Protection
Act.

500

379.2431
(1) (e) 7.

3rd

Soliciting to commit or
conspiring to commit a
violation of the Marine Turtle
Protection Act.

501

400.9935(4) (a)
or (b)

3rd

Operating a clinic, or offering
services requiring licensure,
without a license.

502

400.9935(4) (e)

3rd

Filing a false license
application or other required
information or failing to
report information.

503

440.1051(3)

3rd

False report of workers'
compensation fraud or
retaliation for making such a
report.

504

501.001(2) (b)

2nd

Tampers with a consumer product
or the container using
materially false/misleading

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information.

505

624.401 (4) (a) 3rd Transacting insurance without a
certificate of authority.

506

624.401 (4) (b) 1. 3rd Transacting insurance without a
certificate of authority;
premium collected less than
\$20,000.

507

626.902 (1) (a) & 3rd Representing an unauthorized
(b) insurer.

508

697.08 3rd Equity skimming.

509

790.15 (3) 3rd Person directs another to
discharge firearm from a
vehicle.

510

806.10 (1) 3rd Maliciously injure, destroy, or
interfere with vehicles or
equipment used in firefighting.

511

806.10 (2) 3rd Interferes with or assaults
firefighter in performance of
duty.

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512	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
513	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
514	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
515	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
516	812.081(2)	3rd	Theft of a trade secret.
517	815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
518	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
519			

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520	817.233	3rd	Burning to defraud insurer.
	817.234	3rd	Unlawful solicitation of
	(8) (b) & (c)		persons involved in motor
			vehicle accidents.
521			
	817.234 (11) (a)	3rd	Insurance fraud; property value
			less than \$20,000.
522			
	817.236	3rd	Filing a false motor vehicle
			insurance application.
523			
	817.2361	3rd	Creating, marketing, or
			presenting a false or
			fraudulent motor vehicle
			insurance card.
524			
	817.413 (2)	3rd	Sale of used goods of \$1,000 or
			more as new.
525			
	817.49 (2) (b) 1.	3rd	Willful making of a false
			report of a crime causing great
			bodily harm, permanent
			disfigurement, or permanent
			disability.
526			

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2022

527	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
528	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
	<u>836.13 (2)</u>	<u>3rd</u>	<u>Promoting an altered sexual depiction.</u>
529	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
530	843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
531	860.15 (3)	3rd	Overcharging for repairs and parts.
532	870.01 (2)	3rd	Riot.
	870.01 (4)	3rd	Inciting a riot.

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533	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
534	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
535	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
536	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled

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ORIGINAL

2022

substances.

537

893.13(6)(a)

3rd

Possession of any controlled substance other than felony possession of cannabis.

538

893.13(7)(a)8.

3rd

Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.

539

893.13(7)(a)9.

3rd

Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.

540

893.13(7)(a)10.

3rd

Affix false or forged label to package of controlled substance.

541

893.13(7)(a)11.

3rd

Furnish false or fraudulent material information on any document or record required by chapter 893.

542

893.13(8)(a)1.

3rd

Knowingly assist a patient,

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2022

other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

543

893.13(8)(a)2.

3rd

Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

544

893.13(8)(a)3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

545

893.13(8)(a)4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

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2022

546	918.13 (1) (a)	3rd	Alter, destroy, or conceal investigation evidence.
547	944.47 (1) (a) 1. & 2.	3rd	Introduce contraband to correctional facility.
548	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
549	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
550	(d) LEVEL 4		
551	Florida	Felony	
552	Statute	Degree	Description
553	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with

PCS for HB 1453

ORIGINAL

2022

siren and lights activated.

554

499.0051(1)

3rd

Failure to maintain or deliver
transaction history,
transaction information, or
transaction statements.

555

499.0051(5)

2nd

Knowing sale or delivery, or
possession with intent to sell,
contraband prescription drugs.

556

517.07(1)

3rd

Failure to register securities.

557

517.12(1)

3rd

Failure of dealer, associated
person, or issuer of securities
to register.

558

784.07(2) (b)

3rd

Battery of law enforcement
officer, firefighter, etc.

559

784.074(1) (c)

3rd

Battery of sexually violent
predators facility staff.

560

784.075

3rd

Battery on detention or
commitment facility staff.

561

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2022

562	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
563	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
564	784.081(3)	3rd	Battery on specified official or employee.
565	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
566	784.083(3)	3rd	Battery on code inspector.
567	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
568	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
	787.04(2)	3rd	Take, entice, or remove child beyond state limits with

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ORIGINAL

2022

criminal intent pending custody
proceedings.

569

787.04(3)

3rd

Carrying child beyond state
lines with criminal intent to
avoid producing child at
custody hearing or delivering
to designated person.

570

787.07

3rd

Human smuggling.

571

790.115(1)

3rd

Exhibiting firearm or weapon
within 1,000 feet of a school.

572

790.115(2)(b)

3rd

Possessing electric weapon or
device, destructive device, or
other weapon on school
property.

573

790.115(2)(c)

3rd

Possessing firearm on school
property.

574

800.04(7)(c)

3rd

Lewd or lascivious exhibition;
offender less than 18 years.

575

806.135

2nd

Destroying or demolishing a

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ORIGINAL

2022

memorial or historic property.

576

810.02(4)(a)

3rd

Burglary, or attempted
burglary, of an unoccupied
structure; unarmed; no assault
or battery.

577

810.02(4)(b)

3rd

Burglary, or attempted
burglary, of an unoccupied
conveyance; unarmed; no assault
or battery.

578

810.06

3rd

Burglary; possession of tools.

579

810.08(2)(c)

3rd

Trespass on property, armed
with firearm or dangerous
weapon.

580

812.014(2)(c)3.

3rd

Grand theft, 3rd degree \$10,000
or more but less than \$20,000.

581

812.014
(2)(c)4.-10.

3rd

Grand theft, 3rd degree;
specified items.

582

812.0195(2)

3rd

Dealing in stolen property by
use of the Internet; property

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ORIGINAL

2022

stolen \$300 or more.

583

817.505 (4) (a) 3rd Patient brokering.

584

817.563 (1) 3rd Sell or deliver substance other
than controlled substance
agreed upon, excluding s.
893.03(5) drugs.

585

817.568 (2) (a) 3rd Fraudulent use of personal
identification information.

586

817.625 (2) (a) 3rd Fraudulent use of scanning
device, skimming device, or
reencoder.

587

817.625 (2) (c) 3rd Possess, sell, or deliver
skimming device.

588

828.125 (1) 2nd Kill, maim, or cause great
bodily harm or permanent
breeding disability to any
registered horse or cattle.

589

836.14 (2) 3rd Obtaining with intent to
promote a sexually explicit

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ORIGINAL

2022

image without authorization.

836.14(3)

3rd

Unlawfully possessing a
sexually explicit image with
intent to promote for pecuniary
or any other financial gain.

837.02(1)

3rd

Perjury in official
proceedings.

837.021(1)

3rd

Make contradictory statements
in official proceedings.

838.022

3rd

Official misconduct.

839.13(2)(a)

3rd

Falsifying records of an
individual in the care and
custody of a state agency.

839.13(2)(c)

3rd

Falsifying records of the
Department of Children and
Families.

843.021

3rd

Possession of a concealed
handcuff key by a person in
custody.

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2022

595	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
596	843.15(1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
597	847.0135(5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
598	870.01(3)	2nd	Aggravated rioting.
599	870.01(5)	2nd	Aggravated inciting a riot.
600	874.05(1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
601	893.13(2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 5. drugs).

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ORIGINAL

2022

602	914.14 (2)	3rd	Witnesses accepting bribes.
603	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
604	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
605	916.1085 (2) (c) 1.	3rd	Introduction of specified contraband into certain DCF facilities.
606	918.12	3rd	Tampering with jurors.
607	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
608	944.47 (1) (a) 6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
609	951.22 (1) (h) ,	3rd	Intoxicating drug,

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ORIGINAL

2022

(j) & (k)

instrumentality or other device
to aid escape, or cellular
telephone or other portable
communication device introduced
into county detention facility.

(e) LEVEL 5

Florida

Felony

Statute

Degree

Description

316.027(2) (a)

3rd

Accidents involving personal
injuries other than serious
bodily injury, failure to stop;
leaving scene.

316.1935(4) (a)

2nd

Aggravated fleeing or eluding.

316.80(2)

2nd

Unlawful conveyance of fuel;
obtaining fuel fraudulently.

322.34(6)

3rd

Careless operation of motor
vehicle with suspended license,
resulting in death or serious
bodily injury.

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ORIGINAL

2022

618

327.30(5) 3rd Vessel accidents involving
personal injury; leaving scene.

619

379.365(2)(c)1. 3rd Violation of rules relating to:
willful molestation of stone
crab traps, lines, or buoys;
illegal bartering, trading, or
sale, conspiring or aiding in
such barter, trade, or sale, or
supplying, agreeing to supply,
aiding in supplying, or giving
away stone crab trap tags or
certificates; making, altering,
forging, counterfeiting, or
reproducing stone crab trap
tags; possession of forged,
counterfeit, or imitation stone
crab trap tags; and engaging in
the commercial harvest of stone
crabs while license is
suspended or revoked.

620

379.367(4) 3rd Willful molestation of a
commercial harvester's spiny
lobster trap, line, or buoy.

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2022

621	379.407 (5) (b) 3.	3rd	Possession of 100 or more undersized spiny lobsters.
622	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
623	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
624	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
625	440.381 (2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
626	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.

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627	790.01 (2)	3rd	Carrying a concealed firearm.
628	790.162	2nd	Threat to throw or discharge destructive device.
629	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
630	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
631	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
632	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
633	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
634	800.04 (7) (b)	2nd	Lewd or lascivious exhibition;

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2022

offender 18 years of age or
older.

635

806.111 (1)

3rd

Possess, manufacture, or
dispense fire bomb with intent
to damage any structure or
property.

636

812.0145 (2) (b)

2nd

Theft from person 65 years of
age or older; \$10,000 or more
but less than \$50,000.

637

812.015
(8) (a) & (c) -
(e)

3rd

Retail theft; property stolen
is valued at \$750 or more and
one or more specified acts.

638

812.019 (1)

2nd

Stolen property; dealing in or
trafficking in.

639

812.081 (3)

2nd

Trafficking in trade secrets.

640

812.131 (2) (b)

3rd

Robbery by sudden snatching.

641

812.16 (2)

3rd

Owning, operating, or
conducting a chop shop.

642

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643	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
644	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
645	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
646	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
	817.611 (2) (a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or

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2022

related documents.

647

817.625 (2) (b) 2nd Second or subsequent fraudulent
use of scanning device,
skimming device, or reencoder.

648

825.1025 (4) 3rd Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

649

827.071 (4) 2nd Possess with intent to promote
any photographic material,
motion picture, etc., which
includes ~~sexual conduct by a~~
child pornography.

650

827.071 (5) 3rd Possess, control, or
intentionally view any
photographic material, motion
picture, etc., which includes
~~sexual conduct by a child~~
pornography.

651

828.12 (2) 3rd Tortures any animal with intent
to inflict intense pain,
serious physical injury, or

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2022

death.

652

836.14(4)

2nd

Unlawfully promoting a sexually
explicit image for pecuniary or
any other financial gain.

839.13(2)(b)

2nd

Falsifying records of an
individual in the care and
custody of a state agency
involving great bodily harm or
death.

653

843.01

3rd

Resist officer with violence to
person; resist arrest with
violence.

654

847.0135(5)(b)

2nd

Lewd or lascivious exhibition
using computer; offender 18
years or older.

655

847.0137
(2) & (3)

3rd

Transmission of pornography by
electronic device or equipment.

656

847.0138
(2) & (3)

3rd

Transmission of material
harmful to minors to a minor by
electronic device or equipment.

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2022

657	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
658	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
659	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).
660	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned

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recreational facility or
community center.

661

893.13(1)(d)1. 1st Sell, manufacture, or deliver
cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)5.
drugs) within 1,000 feet of
university.

662

893.13(1)(e)2. 2nd Sell, manufacture, or deliver
cannabis or other drug
prohibited under s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4) within
1,000 feet of property used for
religious services or a
specified business site.

663

893.13(1)(f)1. 1st Sell, manufacture, or deliver
cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
or (2)(a), (2)(b), or (2)(c)5.
drugs) within 1,000 feet of

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2022

public housing facility.

893.13(4) (b) 2nd Use or hire of minor; deliver
to minor other controlled
substance.

893.1351(1) 3rd Ownership, lease, or rental for
trafficking in or manufacturing
of controlled substance.

Section 10. Paragraph (j) of subsection (1) of section
288.1254, Florida Statutes, is amended to read:

288.1254 Entertainment industry financial incentive
program.—

(1) DEFINITIONS.—As used in this section, the term:

(j) "Qualified production" means a production in this
state meeting the requirements of this section. The term does
not include a production:

1. In which, for the first 2 years of the incentive
program, less than 50 percent, and thereafter, less than 60
percent, of the positions that make up its production cast and
below-the-line production crew, or, in the case of digital media
projects, less than 75 percent of such positions, are filled by
legal residents of this state, whose residency is demonstrated
by a valid Florida driver license or other state-issued
identification confirming residency, or students enrolled full-

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2022

time in a film-and-entertainment-related course of study at an institution of higher education in this state; or

2. That contains obscene content as defined in s. 847.001~~(10)~~.

Section 11. Subsection (1) of section 847.0141, Florida Statutes, is amended to read:

847.0141 Sexting; prohibited acts; penalties.—

(1) A minor commits the offense of sexting if he or she knowingly:

(a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in s. 847.001~~(9)~~, and is harmful to minors, as defined in s. 847.001~~(6)~~.

(b) Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined in s. 847.001~~(9)~~, and is harmful to minors, as defined in s. 847.001~~(6)~~. A minor does not violate this paragraph if all of the following apply:

1. The minor did not solicit the photograph or video.

2. The minor took reasonable steps to report the photograph or video to the minor's legal guardian or to a school or law enforcement official.

3. The minor did not transmit or distribute the photograph or video to a third party.

Section 12. This act shall take effect October 1, 2022.